

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

In Re:

DEBRA JEAN SILVA,
Debtor.

)
)
)
) CHAPTER 7
) CASE NO. 09-19222-WCH
)
)

SOVEREIGN BANK,
Plaintiff,

v.

)
)
)
) ROBERT B. OUR CO., INC., ROCKLAND)
) TRUST COMPANY, EDWARD E. VEARA,)
) HALLSMITH-SYSCO FOOD SERVICES,)
) LLC, ROYAL BANK AMERICA)
) LEASING, JOHN F. NOONS, INC., THE)
) COMMONWEALTH OF)
) MASSACHUSETTS, NICKERSON)
) LUMBER COMPANY, CAPE TIP)
) SEAFOOD, INC., TIMEPAYMENT)
) CORP., 85-87 SHANKPAINTER ROAD,)
) LLC, CLEMENT A. SILVA, individually)
) and as Trustee of the CLEMDEB REALTY)
) TRUST, DEBRA J. SILVA, as Trustee of)
) the CLEMDEB REALTY TRUST, and)
) STEPHEN E. SHAMBAN, as Chapter 7)
) Trustee,)
) Defendants.)
_____)

)
)
)
) ADVERSARY PROCEEDING
) CASE NO. 10-01205
)
)

MOTION TO WITHDRAW OPPOSITION FILED BY STEPHEN SHAMBAN TO
MOTION FILED BY SOVEREIGN BANK FOR ATTORNEYS' FEES AND COSTS AND
DISMISSAL AS PLAINTIFF IN INTERPLEADER ACTION

Now comes Chapter 7 Trustee, Stephen E. Shamban, and says:

1. On July 28, 2010, Sovereign Bank filed this adversary proceeding to deposit surplus proceeds from a foreclosure sale on real estate located at 85-87 Shank Painter Road, Provincetown, Massachusetts and require the defendants to resolve their claims to the surplus proceeds.
2. On September 17, 2010, Sovereign Bank filed a Motion for Attorneys' Fees and Costs and Dismissal as Plaintiff in the Interpleader Action.
3. On September 24, 2010 the Chapter 7 Trustee filed an Opposition to Sovereign Bank's Motion for Attorneys' Fees and Costs and Dismissal as Plaintiff in the Interpleader Action.
4. No other party filed an opposition, objection or other responsive pleading to Sovereign Bank's Motion for Attorneys' Fees and Costs and Dismissal as Plaintiff in the Interpleader Action.
5. On October 4, 2010, the Chapter 7 Trustee filed a Motion to Substitute as Plaintiff in the Interpleader Action.
6. On October 27, 2010, the Court allowed the Chapter 7 Trustee's Motion to Substitute as Plaintiff in the Interpleader Action.

7. The Chapter 7 Trustee has reviewed the Affidavit, statement and attachments with respect to the attorney's fees and costs of counsel for Sovereign Bank and has no objection to payment of the attorney's fees.

8. The Court has scheduled a hearing on October 29, 2010 at Barnstable Town Hall, Hyannis for the Motion for Attorneys' Fees and Costs and Dismissal as Plaintiff in the Interpleader Action and the only issue that remains is the compensation of attorney's fees and costs.

WHEREFORE, the Chapter 7 Trustee, Stephen E. Shamban, respectfully requests that this Honorable Court:

1. Grant him leave to withdraw his Opposition to Sovereign Bank's Motion for Attorneys' Fees and Costs and Dismissal as Plaintiff in the Interpleader Action; and
2. Enter an Order for such other and further relief as is meet and proper and as justice may require.

Respectfully submitted,
STEPHEN E. SHAMBAN, CHAPTER 7 TRUSTEE
By his Attorneys,
STEPHEN E. SHAMBAN LAW OFFICES, P.C.

DATED: October 28, 2010 By: /s/Jenny L. Redden
JENNY L. REDDEN (BBO# 645667)
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222 FORBES ROAD, STE. 208
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CERTIFICATE OF SERVICE

I, Jenny L. Redden, counsel to the Plaintiff, Stephen E. Shamban, Chapter 7 Trustee, herein certify that on October 28, 2010, I electronically filed with the Clerk of the Bankruptcy Court: MOTION TO WITHDRAW OPPOSITION FILED BY STEPHEN SHAMBAN TO MOTION FILED BY SOVEREIGN BANK FOR ATTORNEYS' FEES AND COSTS AND DISMISSAL AS PLAINTIFF IN INTERPLEADER ACTION and served same in the following manner upon the interested parties:

E-Mail Service: via the Court's CM/ECF system which sent notification of such filing to the following:

David T. Mazzuchelli mazzucheld@dor.state.ma.us
Jessica Murphy jmurphy@mirickoconnell.com
Brian D. Widegren brianwidegren@gmail.com
Michael A. Wirtz jmikels@gis.net

Mail Service: via Regular, first-class United States mail, postage fully pre-paid, addressed to:

85-87 Shank Painter Road, LLC
85 Shank Painter Road
Provincetown, MA 02657-1344

Cape Tip Seafood, Inc.
45A Court Street
Provincetown, MA 02657

John F. Noons, Inc.
6 Noons Heights Road
North Truro, MA 02652

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Haynes and Boone, LLP
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Nickerson Lumber Company
465 Route 134
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/s/ Jenny L Redden